

(916) 324-6594

July 11, 1984

Mr. Frank C. Seeley
Riverside County Assessor
4080 Lemon Street
Riverside, CA 92501-3659

Attention: Mr. James J. Brzytwa
Supervising Appraiser
Identification Division

Joint Tenancies

Dear Mr. Brzytwa:

This letter is in reply to your letter to Mr. Richard Ochsenr of June 11, 1984, in which you ask our opinion whether a surviving joint tenant (hereinafter "B") ever became an "original transferor" under the following facts:

1. In June 1959, A & B, mother and daughter, acquired by deed the subject property from a third party as joint tenants.
2. In April 1968, B deeded her interest in the property to A.
3. In December 1974, A deeded the property to A & B as joint tenants.
4. In April 1979, A passed away.

Revenue and Taxation Code Section 65(b) provides, in relevant part:

"There shall be no change in ownership upon the creation or transfer of a joint tenancy interest if the transferor..., after such creation or transfer, [is] among the joint tenants. Upon the creation of a joint tenancy interest described in this subdivision,

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the transferor...shall be the 'original transferor...' for purposes of determining the property to be reappraised on subsequent transfers." (See also Rule 462(c).)

When A and B took title as joint tenants in June 1959, neither became an original transferor because the joint tenancy was created by a transfer from a third party. When B deeded her interest in the property to A in April 1968, the joint tenancy terminated and A became the sole owner of the property. As a result of A's conveyance to A and B as joint tenants in December 1974, A, but not B, became an "original transferor" as described in Section 65(b).

The only basis upon which B could be classified as an "original transferor" is the rebuttable presumption of Section 65(e) "that each joint tenant holding an interest in property as of March 1, 1975, shall be an 'original transferor.'" Where the evidence is contrary to the presumption as it is in this case, however, the presumption is rebutted and of no effect. B, therefore, never was an "original transferor."

As a result of A's death in April 1979, the property vested in B who, as indicated above, was not an "original transferor." Since the "original transferor" A was the sole owner of the property prior to the creation of the joint tenancy in 1974, a reappraisal of the entire property is required by Section 65(c).

Enclosed for your information are copies of the following correspondence to the same effect:

1. A letter dated October 21, 1982 to Dick Frank from Glenn Rigby.
2. A letter dated 1, 1983 to Dennis Schmitz from Margaret Shedd.
3. A letter dated April 20, 1984 to Dick Frank from James McManigal.

I trust the foregoing has been helpful. If you have further questions regarding this matter, please get in touch with me.

Very truly yours,

Eric F. Eisenlauer
Tax Counsel

EFE:jlh
Enc.
cc: